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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICOH COMPANY, LTD.,

Plaintiff,

vs.

AEROFLEX INCORPORATED, et al.,

Defendants.

Case No. CV 03-04669 MJJ

**RICOH'S NOTICE OF MOTION AND
MOTION TO COMPEL PRODUCTION OF
DOCUMENTS FROM SYNOPSIS**

Date: December 16, 2003

Time: 9:30 a.m.

Courtroom 11

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NOTICE OF MOTION AND RELIEF REQUESTED**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on December 16, 2003, at 9:30 a.m. in Courtroom 11, of the above-referenced court, Plaintiff Ricoh Company, Ltd. (“Ricoh”), will and hereby does move the Court for an order compelling Synopsys, Inc. (“Synopsys”) to produce documents requested by Ricoh.

Ricoh bases this motion upon the following Memorandum of Points and Authorities, the enclosed declaration and exhibits, all pleadings on file in this case, and such argument as may be heard by this Court.

MEMORANDUM OF POINTS AND AUTHORITIES**INTRODUCTION**

Ricoh sued Aeroflex Incorporated, AMI Semiconductor, Inc., Matrox Electronic Systems, Ltd., Matrox Graphics Inc., Matrox International Corp. and Matrox Tech, Inc. (collectively the “ASIC defendants”) in Delaware for infringement of U.S. patent No. 4,922,432 (the “432 Patent”). That case has been transferred to this court.

Synopsys is a third party in this action, and is also a declaratory judgment plaintiff in a related action. Synopsys is indemnifying the ASIC defendants this action, and the same counsel represents those defendants and Synopsys. Synopsys has repeatedly argued in this action that it is the “real party in interest” with respect to Ricoh’s claims relating to the ‘432 patent. Yet when presented with a document subpoena, Synopsys suddenly claims that it is a third party that should have no obligation to produce the very documents that a “real party in interest” should produce.

Continuing its “scorched earth” strategy of fighting over every conceivable topic, Synopsys has stonewalled producing documents for months. Synopsys’ bad-faith tactics include its refusal to produce information regarding Design Compiler, claiming that those documents should first be sought from the ASIC defendants. In turn, the ASIC defendants (represented by the same counsel) claim that only Synopsys can produce that information.

BACKGROUND

This matter originated in the District of Delaware, when Plaintiff Ricoh sued a number of computer chip manufacturers for patent infringement. The patent in suit has claims directed to a computer aided design process for making an application specific integrated circuit (ASIC). The six defendants in the Delaware action are collectively referred to herein as “the ASIC defendants.” This motion incorporates by reference the background and factual discussion in Ricoh’s motion to compel documents and interrogatory responses from the ASIC defendants, filed concurrently with this motion.

On June 13, 2003, Ricoh served Synopsys with a document subpoena. (Ex.1)¹. The subpoena included topics relating to the ASIC Defendants’ use of Synopsys’ design synthesis software, technical communications with the ASIC defendants, information regarding the ‘432 patent, publications cited by the ASIC defendants, and prior art.

On June 26, 2003, Synopsys objected to all of the categories in the subpoena. (Ex. 2). Over the next two months, counsel for the parties negotiated with respect to the scope of the subpoena and Synopsys’ objections. (Ex. 3, E. Meilman 7/3/03 letter to C. Kelley; Ex. 4, C. Kelley 7/9/03 letter to E. Meilman; Ex. 5, C. Kelley 7/14/03 letter to E. Meilman; Ex. 6, E. Meilman 7/15/03 letter to C. Kelley.) Counsel for the parties also had telephonic meet and confer conferences. During July, 2003 Synopsys began to produce some prior art documents responsive to the subpoena. Synopsys generally refused to produce documents responsive to Topics 1-28 of the subpoena, however.

The parties were unable to resolve their other differences. Delaware District Court Judge Sleet held a hearing on Ricoh’s subpoena to Synopsys (among other issues) on August 28, 2003. During that hearing, the court ordered Synopsys (as well as the ASIC defendants) to come to a resolution with Ricoh about all of the document requests by September 5, 2003, and produce responsive documents.

¹ All cited Exhibits are attached to the declaration of Jonathan Weissglass in Support of Ricoh’s motion to Compel Documents From Synopsys, filed concurrently herewith.

(Ex. 7, 8/28/03 Tr.). The court indicated that production of the Synopsys confidential documents would be under the Protective Order entered in the case.

The day after the hearing, Judge Sleet transferred this case to this Court. Further enforcement of Judge Sleet's instructions is therefore a matter for this Court.

ARGUMENT

I. SYNOPSIS SHOULD PRODUCE DOCUMENTS RESPONSIVE TO RICOH'S SUBPOENA

A. The Requests Are Relevant

As Judge Sleet observed, the requested documents are relevant to Ricoh's infringement claims. (Ex. 7, 8/28/03 Tr. at p 43, lines 11- 24.) Synopsys' counsel did not dispute this point with the Court. Indeed, both Synopsys and the ASIC defendants have claimed that this litigation is about the use of Synopsys' Design Compiler. There is little question that Ricoh's subpoena for documents regarding Synopsys' design synthesis products, communications with the ASIC defendants regarding their use of the Synopsys products, the patent-in-issue, and the prior art, is relevant.

B. Synopsys Boilerplate Objections Are Invalid

One of the purported bases for Synopsys' refusal to produce documents in response to subpoena is their raft of general and specific objections to the production requests. Each and every document request was objected to by Synopsys in a statement which incorporates by reference each and every one of twelve (12) numbered objections set forth under the heading "General Objections" (Ex. 2) and the five "Specific Objections to Definitions & Instructions." Such a "blanket" approach is effectively not an objection at all. *Walker v. Lakewood Condominium Owners Association*, 186 F.R.D. 584, 587 (C.D. Cal. 1999).

General Objections 1 and 2 are not valid because the burden is on Synopsys to seek protection from the Court, not vice versa. Ricoh offered as a compromise to accept an identification of any third party involved as well as a sufficient identification of any involved documents to identify the documents in a document subpoena instead of actual production of the document, provided that Synopsys produce such material before the end of July. (Ex. 3, E. Meilman 7/3/03 letter to C. Kelley.)

1 General Objection 3 is not valid. The fact that documents may be obtainable from some
2 other source does not excuse Synopsys production of those documents. See, e.g., *Heat & Control, Inc.*
3 *v. Hester Industries, Inc.*, 785 F.2d 1017, 1024-25 (Fed. Cir. 1986).

4 As to General Objection 5 as well as Specific Objections 4 and 5, Ricoh agreed to limit the
5 time frame as being from 1996 to the present unless the document relates to prior art or it represents a
6 communication with a defendant in the case. (Ex. 3, E. Meilman 7/3/03 letter to C. Kelley.) For prior
7 art documents and communications with defendants, this objection is not valid.

8 General Objections 6, 8 and 10 make no logical sense. No request seeks a legal conclusion
9 or Synopsys contention and Rule 33(a) of the Federal Rules is not applicable to documents.

10 With regard to General Objection 9, Ricoh agreed that any given document need only be
11 produced once. (Ex. 3, E. Meilman 7/3/03 letter to C. Kelley.) To the extent that this objection is based
12 on the assertion the information is obtainable from some other source, it is not valid for reasons set forth
13 above.

14 As to General Objection 11, Ricoh agrees to Synopsys' limiting the requests to design
15 synthesis tools that were made, used and/or sold in the United States or may have been used outside of
16 the United States as a part of a process to make products imported into the United States. (Ex. 3, E.
17 Meilman 7/3/03 letter to C. Kelley.) Turning to General Objection 12, there is a Protective Order in
18 place that counsel for Synopsys negotiated and that applies to Synopsys documents.

19 In summary, Synopsys' general objections are nothing more than boilerplate, and create no
20 legitimate reason for refusing to produce the requested documents.

21
22 **C. Synopsys Has Not Produced A Privilege Log And Its Privilege Objections Are
23 Unsupported**

24 Synopsys has claimed that many of the document requests call for documents protected by
25 the attorney-client privilege or the work product doctrine, but it has refused to produce a privilege log or
26 otherwise substantiate its assertions, contrary to Rules 45 and 25(b)(5). A "blanket" objection based on
27 privilege is improper. Improper assertion of the privilege by not complying with the requirement to
28

specifically identify the documents that are allegedly privileged can result in a waiver of the privilege. *Eureka Financial Corp. v. Hartford Accident and Indemnity Company*, 136 F.R.D. 179, 182-83 (E.D. Cal. 1991) (“although it may be time-consuming to specifically assert the attorney-client privilege in a document intensive litigation...courts nevertheless clearly require such specific identification”).

Synopsys must “expressly claim the privilege and describe the nature of the documents” and “[f]ailure to do so may constitute an ‘implied’ waiver of the privilege or protection.” *Imperial Corp. v. Shields*, 174 F.R.D. 475, 477 (S.D. Cal. 1997). Synopsys has provided no basis for their objections based on privilege and have provided no privilege log identifying any protected confidential communications, which were not disclosed in answering the Document Requests.

Synopsys has provided no reasoning as to why any documents should receive protection under the work product doctrine or what specific documents would be covered under the work product doctrine. Fed. R. Civ. P 26(b)(3) states that work product protection only applies to documents and tangible things prepared by a party “in anticipation of litigation.” The party seeking protection from the work product doctrine “bears the burden of establishing that any documents claimed as work product were prepared in anticipation of litigation.” *Newport Pacific Inc. v. County of San Diego*, 200 F.R.D. 628, 632 (S.D. Cal. 2001). Synopsys has not established any documents with particularity that should be protected under work product doctrine nor have they shown that any of the documents requested were prepared in anticipation of litigation. It is implausible that the documents requested, for example, patent applications or prior art, were “prepared in anticipation of litigation.”

D. Synopsys Should Be Compelled To Produce the Requested Documents

1. Requests Relating to Synopsys’ Design Synthesis Software (Nos. 1-10, 14, 16-18)

Request No. 1: Produce documents sufficient to show the manner of marketing and promotion by or for Synopsys of each ASIC Design System and ASIC Method including but not limited to brochures, print or other advertisements, and tradeshow materials.

Response to Document Request No. 1: In addition to its general and specific objections, Synopsys further objects to this request on the basis that it is overly broad, unreasonably burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing

1 Synopsys products of infringing the patents at issue in this case. The manner of marketing and
2 promotion by Synopsys of design synthesis tools is not relevant to any issue in the present
litigation.

3 Request No. 2: Produce documents sufficient to show the capabilities, features, functions,
4 operation, and use of the ASIC Design Systems and ASIC Methods including, but not limited to,
5 any user guides, operation guides, technical bulletins, technical reference manuals, user manuals,
6 training manuals, specifications, source code, tutorials, technical overviews, summaries,
functional descriptions, design flow diagrams, operational flow diagrams, design specifications,
articles, reports, and memos.

7 Response to Document Request No. 2: In addition to its general and specific objections,
8 Synopsys further objects to this request on the basis that it is overly broad, unreasonably
9 burdensome and not reasonably calculated to lead to the discovery of admissible evidence.
10 Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
Synopsys products of infringing the patents at issue in this case. The capabilities, features,
functions, etc. of Synopsys' design synthesis software are not relevant to any issue in the present
litigation.

11 Request No. 3: Produce documents sufficient to show the capabilities, features, functions,
12 operation, and use of the of the user interface to the ASIC Design Systems, including by not
13 limited to, the DC Shell, and the Verilog, VHDL, HDL, and/or any other, input specification
language used in connection with the ASIC Design Systems and ASIC Methods.

14 Response to Document Request No. 3: In addition to its general and specific objections,
15 Synopsys further objects to this request on the basis that it is overly broad, unreasonably
16 burdensome and not reasonably calculated to lead to the discovery of admissible evidence.
17 Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
18 Synopsys products of infringing the patents at issue in this case. The capabilities, features,
functions, etc. of Synopsys' design synthesis software are not relevant to any issue in the present
litigation.

19 Request No. 4: Produce all documents concerning all hardware, software, libraries and/or
20 databases provided, made available, distributed, or recommended by or on behalf of Synopsys to
21 defendants concerning the practice of an ASIC Method using an ASIC Design System,
including, but not limited to, technical reference manuals, technical bulletins, user manuals,
installation manuals, training manuals, specifications, source code, tutorials, technical overviews,
and summaries.

22 Response to Document Request No. 4: In addition to its general and specific objections,
23 Synopsys further objects to this request on the basis that it is overly broad, unreasonably
24 burdensome and not reasonably calculated to lead to the discovery of admissible evidence.
25 Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
26 Synopsys products of infringing the patents at issue in this case. The hardware, software,
libraries and/or databases use din Synopsys' design synthesis software are not relevant to any
issue in the present litigation.

27 Request No. 5: Produce all documents concerning all hardware, software, libraries and/or
28 databases for use in ASIC Design Systems for the selection of architecture-specific hardware
cells in designing ASIC Products, including, but not limited to, technical reference manuals,

1 technical bulletins, user manuals, installation manuals, training manuals, specifications, source
2 code, tutorials, technical overviews, and summaries.

3 Response to Document Request No. 5: In addition to its general and specific objections,
4 Synopsys further objects to this request on the basis that it is overly broad, unreasonably
5 burdensome and not reasonably calculated to lead to the discovery of admissible evidence.
6 Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
7 Synopsys products of infringing the patents at issue in this case. The hardware, software,
8 libraries and/or databases use

9 Request No. 6: Produce all documents concerning agreements or other arrangements granting
10 rights in or otherwise concerning ASIC Design Systems and ASIC Methods from Synopsys to
11 any defendant (or from any defendant to Synopsys), including but not limited to contracts,
12 licenses, purchase agreements, indemnification agreements, and hold-harmless
13 agreements/covenants not to sue.

14 Response to Document Request No. 6: In addition to its general and specific objections,
15 Synopsys further objects to this request on the basis that it is unreasonably burdensome and not
16 reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
17 the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
18 the patents at issue in this case. The content of any contracts, licenses, purchase agreements,
19 indemnification agreements and the like between Synopsys and any defendant is typically treated
20 as highly confidential information and is not relevant to any issue in the present litigation. If
21 information about contracts, licenses, purchase agreements. etc. could be shown to have any
22 relevance to the present litigation, this information should be obtained, less burdensomely,
23 directly from the defendants.

24 Request No. 7: Produce all documents concerning solicitations, offers, or presentations made by
25 or to any defendant with respect to ASIC Design Systems and ASIC Methods, including but not
26 limited to advertising material, proposals, and presentations.

27 Response to Document Request No. 7: In addition to its general and specific objections,
28 Synopsys further objects to this request on the basis that it is unreasonably burdensome and not
reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
the patents at issue in this case. The content of any solicitations, offers, or presentations to any
defendant regarding Synopsys' design synthesis tools is typically treated as highly confidential
information and is not relevant to any issue in the present litigation. If information about
solicitations, offers or presentations could be shown to have any relevance to the present
litigation, this information should be obtained, less burdensomely, directly from the defendants.

Request No. 8: Produce documents sufficient to show the actual or projected cost savings by
any defendant as a consequence of licensing or using ASIC Design Systems and ASIC Methods.

Response to Document Request No. 8: In addition to its general and specific objections,
Synopsys further objects to this request on the basis that it is unreasonably burdensome and not
reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
the patents at issue in this case. The cost savings resulting from use of Synopsys' design
synthesis tools is not relevant to any issue in the present litigation. If information about cost

1 savings could be shown to have any relevance to the present litigation, this information should be
2 obtained, less burdensomely, directly from the defendants.

3 Request No. 9: Produce documents sufficient to show the annual dollar and unit volume of sales
4 and sales projections by or on behalf of Synopsys of ASIC Design Systems and ASIC Methods
5 to each defendant, including but not limited to indicating how Synopsys defines “sales” and
6 “unit.”

7 Response to Document Request No. 9: In addition to its general and specific objections,
8 Synopsys further objects to this request on the basis that it is unreasonably burdensome and not
9 reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
10 the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
11 the patents at issue in this case. The volume of sales of Synopsys’ design synthesis tools to
12 defendants is not relevant to any issue in the present litigation. If sales volumes could be shown
13 to have any relevance to the present litigation, this information should be obtained, less
14 burdensomely, directly from the defendants.

15 Request No. 10: Produce documents sufficient to show the gross revenue, as well as the
16 discounts, rebates or other reductions deducted from gross revenue from sales by or on behalf of
17 Synopsys of ASIC Design Systems and ASIC Methods to each defendant, including but not
18 limited to how Synopsys defines each item of discount, rebate or other reduction deducted from
19 gross revenue.

20 Response to Request No. 10: In addition to its general and specific objections, Synopsys further
21 objects to this request on the basis that it is unreasonably burdensome and not reasonably
22 calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present
23 litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing the patents
24 at issue in this case. The revenues to Synopsys resulting from sales of any design synthesis tools
25 to defendants is not relevant to any issue in the present litigation. If revenues could be shown to
26 have any relevance to the present litigation, this information should be obtained, less
27 burdensomely, directly from the defendants.

28 Request No. 14: Produce all documents concerning communications between Synopsys and any
other person or entity concerning the patent-in-suit.

Response to Request No. 14: In addition to its general and specific objections, Synopsys objects
to this request on the basis that it seeks the production of documents protected by the attorney-
client privilege and/or the work product doctrine. Synopsys further objects to this request on the
basis that it is not reasonably calculated to lead to the discovery of admissible evidence.
Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
Synopsys products of infringing the patents at issue in this case.

Document Request No. 16: Produce all patents and pending patent applications which describe
all or part of the operation of any ASIC Design System and all or part of any ASIC Method
including, but not limited to, any documents filed in connection with such applications, by
Synopsys or as to which Synopsys has any rights, in the United States or elsewhere.

Response to Request No. 16: In addition to its general and specific objections, Synopsys further
objects to this request on the basis that it seeks the production of materials that are protected by
the attorney-client privilege and/or the work product doctrine. Synopsys further objects that the
request is overly broad, unreasonably burdensome and not reasonably calculated to lead to the

discovery of admissible evidence. Patents issued to Synopsys are available to Ricoh in a less burdensome manner from public sources. Pending patent applications are highly confidential and Ricoh has made no showing of relevance, let alone compelling need, for such documents.

Document Request No. 17: Produce all documents concerning any examinations, tests, studies, surveys, or other inquiry conducted by or for Synopsys on behalf of, in conjunction with, or at the request of, defendants on or with respect to any ASIC Design System and ASIC Method.

Document Request No. 18: Produce all documents concerning any examinations, tests, studies, surveys, or other inquiry conducted by or for defendants on or with respect to any ASIC Design System and ASIC Method.

Response to Request Nos. 17-18: In addition to its general and specific objections, Synopsys further objects to this request on the basis that is overly broad, unreasonably burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing the patents at issue in this case. The nature of any technical or operational support provided for any Synopsys design synthesis tool is, therefore, not relevant to any issue in the present litigation. If examinations, tests, studies, surveys or other inquiries concerning design synthesis systems could be shown to be relevant to any issue in the present litigation, information about these examinations, tests, studies, etc. should be obtained, less burdensomely, directly from the defendants.

(Ex. 1 & 2.)

Synopsys has stated use of its products are at the heart of this suit. Requests relating to the technical capabilities of the Synopsys products are thus clearly proper and the objections made are not valid. *See Derry Finance N.V. v. Christiana Companies, Inc.*, 102 F.R.D. 892, 896-97 (D. Del. 1984) (compelling response to subpoena, and noting that "[b]eing relevant, the documents requested are subject to discovery, even though the process of production may be tedious and expensive"); *Cash Today of Texas, Inc. v. Greenberg*, 2002 WL: 31414138 *2, *3 (D. Del. 2002) (denying motion to quash third party subpoena requesting documents since relevance is established when the sought after information is relevant in broad terms to the subject matter of the litigation); *Walker v. Lakewood Condominium Owners Assoc.*, 186 F.R.D. 584, 587 (C.D. Cal. 1999) (objection to discovery request as being "overly broad, burdensome, oppressive and irrelevant" was a "[b]oilerplate, generalized objection that . . . [was] inadequate and tantamount to not making any objection at all"); (citing *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982)). *See also Redland Soccer Club, Inc. v. Department of the Army*, 55 F.3d 827, 856 (3d Cir. 1995) ("In *Josephs*, we stated 'the mere statement by a party that the

interrogatory was overly broad, burdensome, oppressive and irrelevant is not adequate to voice a successful objection to an interrogatory”), citing *Josephs*, 677 F.2d at 992 (internal quotations omitted). Instead, the party resisting discovery must show specifically how each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive. *Id.* (citations, internal ellipses and internal quotations omitted).

The capabilities, features, functions, etc., of Synopsys design synthesis software (for example, Design Compiler) are most relevant to the issue of patent infringement. The fact that Synopsys is not a party to the present litigation (although it is quite clearly heavily involved in it and has told the court it is the real party in interest) is the reason for a subpoena rather than a document request. While Ricoh has not accused Synopsys of patent infringement, the issue of what the ASIC defendants do with Synopsys products is clearly relevant to a determination of whether or not there is patent infringement.

With further respect to Request No. 6, the fact that documents may (or may not) be obtained from the ASIC defendants does not excuse Synopsys from producing them. The Protective Order is more than sufficient to protect Synopsys’ confidential information. The suggestion by Synopsys and the defendants’ common counsel to get the documents from the defendants is particularly outrageous in that Synopsys, having assumed the defense of this action on behalf of the ASIC defendants, directed the ASIC defendants to refuse to produce the documents with one of the alleged reasons being that they are confidential to Synopsys. Notwithstanding the foregoing, on July 3, Ricoh offered limit Request 7 to presentations and exclude advertisement materials and promotions, in order to expedite production of documents. (Ex. 3, E. Meilman 7/3/03 letter to C. Kelley.)

2. Documents Relating To The Patent-In-Suit (Request Nos. 11, 15, 22-24)

Document Request No. 11: Produce all documents concerning the validity of the patent-in-suit.

Response to Request No. 11: In addition to its general and specific objections, Synopsys objects to this request to the extent that it seeks the production of documents protected by the attorney-client privilege and/or the work product doctrine. Synopsys is not presently aware of the existence of any non-privileged documents directly addressed to the question of the validity of the patent-in-suit. In another lawsuit pending in the Northern District of California, Synopsys seeks a declaratory judgment of the invalidity of the ‘432 patent. In due course during the litigation Synopsys intends to produce documentary evidence to Ricoh establishing the invalidity

1 of the patent. Synopsys is not a party to the present suit and it is unreasonably burdensome to
2 ask Synopsys to duplicate such discovery in this suit.

3 Document Request No. 15: Produce all documents concerning all materials presented to the
4 Board of Directors of Synopsys and all agendas or notes of Board meetings which refer to,
5 mention or discuss the patent-in-suit.

6 Response to Request No. 15: In addition to its general and specific objections, Synopsys objects
7 to this request on the basis that it seeks the production of documents protected by the attorney-
8 client privilege and/or the work product doctrine. Synopsys further objects to this request on the
9 basis that it is not reasonably calculated to lead to the discovery of admissible evidence.
10 Synopsys is not a party to the present litigation. Ricoh has asserted that it is not accusing
11 Synopsys products of infringing the patents at issue in this case. Discussions by Synopsys'
12 Board of Directors on the subject of the patent in suit are not intrinsically relevant to any issue in
13 the present case. Without waiving any of the foregoing objections, Synopsys will produce non-
14 privileged documents, if any, discovered after a reasonable search, relating to previous occasions
15 on which Synopsys has been approached regarding offers to the '432 patent.

16 Document Request No. 22: Produce all documents concerning conversations, communications,
17 correspondence, discussions or meetings concerning the patent-in-suit.

18 Document Request No. 23: Produce all documents concerning the patent-in-suit.

19 Document Request No. 24: Produce all documents referring to plaintiff and concerning the
20 patent in suit or this litigation.

21 Response to Request Nos. 22-24: In addition to it general and specific objections, Synopsys
22 further objects to this request on the basis that it seeks the production of documents subject to the
23 attorney-client privilege and the work product doctrine. Discussions internal to Synopsys
24 regarding the '432 patent are not intrinsically relevant to any issue in the present litigation.
25 Without waiving any of the foregoing objections, Synopsys will produce non-privileged
26 responsive documents that can [sic] found after a reasonable search which are relevant to the
27 substantive rights of defendants, including documents, if any, relating to prior occasions on
28 which Synopsys was approached regarding licensing of the '432 patent.

Turning to Request 11, although Synopsys states it is not presently aware of the existence of
any non-privileged documents addressed to validity, Synopsys has limited this statement to those
documents which "directly address" validity of the '432 patent. Production of documents which may be
"indirectly" addressed to validity should be compelled. The fact that Synopsys says that it may produce
evidence in the declaratory judgment lawsuit some unknown time in the future is not an excuse for
refusing to produce those documents in this case. In any event, Judge Sleet during the Rule 16
conference clearly rejected the request by Synopsys' counsel to stay discovery in Delaware and

1 indicated that any discovery had in this case could be also used in the California case which Synopsys
2 was then threatening and since has brought against Ricoh.

3 Synopsys' refusal to produce board of director documents regarding the patent-in-suit has no
4 merit, especially in light of Synopsys' indemnification agreements (Ex. 8) that suggest that Synopsys
5 may have an obligation to indemnify its customers. These board of director documents clearly are
6 relevant and should be produced. Synopsys' unilateral attempt to narrow the request to documents
7 relating to requests to license the '432 patent should not be allowed.

8 Request 22, 23 and 24 are clearly relevant to the recognition or non-recognition by Synopsys
9 and/or others of the validity of the patent-in-suit and are also relevant to the possibility of infringement
10 by the defendants.

11
12 **3. Documents Relating To Technical Communications With The ASIC**
13 **Defendants (Request Nos. 19-21, 26-28)**

14 Document Request No. 19: Produce all documents concerning any returns of ASIC Design
15 Systems made (or requested to be made) by defendants.

16 Response to Request No. 19: In addition to its general and specific objections, Synopsys further
17 objects to this request on the basis that it is unreasonably burdensome and not reasonably
18 calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present
19 litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing the patents
20 at issue in this case. Returns of Synopsys design synthesis systems by defendants are not
21 relevant to any issue in the present litigation. If the return of Synopsys design synthesis systems
22 could be shown to have relevance to any issue in the present litigation is [sic] should be obtained,
23 less burdensomely, directly from the defendant.

24 Document Request No. 20: Produce all documents concerning any replacement of ASIC Design
25 Systems made (or requested to be made) by Synopsys to defendants.

26 Response to Request No. 20: In addition to its general and specific objections, Synopsys further
27 objects to this request on the basis that it is unreasonably burdensome and not reasonably
28 calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present
litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing the patents
at issue in this case. The replacement of any Synopsys design synthesis tool is not relevant to
any issue in the present litigation. If the replacement of Synopsys design synthesis systems
could be shown to have relevance to any issue in the present litigation, the requested documents
should be obtained, less burdensomely, directly from the defendant.

Document Request No. 21: Produce all documents concerning communications between
Synopsys and any other person or entity concerning the performance, use, placement, operation,
or installation of ASIC Design Systems operated by or on behalf of defendants, including, but

1 not limited to, communications with defendants and communications with the Synopsys User
2 Group or "SNUG".

3 Response to Request No. 21: In addition to its general and specific objections, Synopsys further
4 objects to this request on the basis that it is unreasonably burdensome and not reasonably
5 calculated to lead to the discovery of admissible evidence. Synopsys is not a party to the present
6 litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing the patents
7 at issue in this case. The nature of any performance use, placement, etc. of Synopsys design
8 synthesis tools is not relevant to any issue in the present litigation. To the extent that the
9 performance, use, placement, etc. could be shown to have relevance to any issue in the present
10 litigation, information about such use, placement, operations, etc. should be obtained, less
11 burdensomely, directly from the defendants.

12 Document Request No. 26: Produce all documents concerning any change, alteration or
13 modification made or requested to be made to an ASIC Design System or ASIC Method
14 provided or offered to defendants, regardless of the entity requesting the change, alteration or
15 modification.

16 Response to Request No. 26: In addition to its general and specific objections, Synopsys further
17 objects to this request on the basis that it is overly broad, unreasonably burdensome and not
18 reasonably calculated to lead to the discovery of admissible evidence. Ricoh has asserted that it
19 is not accusing Synopsys products of infringing the patents at issue in this case. Synopsys is not
20 a party to the present action. The nature of any change, alteration or modification of any
21 Synopsys design synthesis tool is not relevant to any issue in the present litigation.

22 Document Request No. 27: Produce all documents concerning any technical or operational
23 support provided by or on behalf of Synopsys to any defendant for ASIC Design Systems and
24 ASIC Methods.

25 Response to Request No. 27: In addition to its general and specific objections, Synopsys further
26 objects to this request on the basis that it is overly broad, unreasonably burdensome and not
27 reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
28 the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
the patents at issue in this case. The nature of any technical or operational support provided for
any Synopsys design synthesis tool is not relevant to any issue in the present litigation. If the
technical or operational support provided by Synopsys could be shown to be relevant to any
issue in the present litigation, the requested discovery should be obtained, less burdensomely,
directly from the defendants.

Document Request No. 28: Produce all documents concerning communications with any
defendant regarding ASIC Products, ASIC Design Systems, and ASIC Methods.

Response to Request No. 28: In addition to its general and specific objections, Synopsys further
objects to this request on the basis that it is overly broad, unreasonably burdensome and not
reasonably calculated to lead to the discovery of admissible evidence. Synopsys is not a party to
the present litigation. Ricoh has asserted that it is not accusing Synopsys products of infringing
the patents at issue in this case. Communications regarding design synthesis between Synopsys
and defendants is not relevant to any issue in the present litigation. If these communications
could be shown to be relevant to any issue in the present litigation, the requested discovery
should be obtained, less burdensomely, directly from the defendants.

1 Documents relating to changes, etc., to an ASIC Design System or ASIC Method provided or
2 offered to one of the ASIC defendants is clearly relevant to the issue of infringement. The capabilities,
3 features and functions of the named design systems are relevant to a consideration of whether those
4 systems are being used in a way to infringe Ricoh's '432 patent. Indeed, both the ASIC defendants and
5 Synopsys assert that Ricoh's patent infringement theory relates to the use of Synopsys' products. By
6 their own admission, these documents are relevant.
7

8 Scaling the height of hypocrisy, Synopsys claims that these documents should be obtained from
9 the ASIC defendants. The ASIC defendants, in turn, refuse to produce them, claiming that the
10 documents contain Synopsys confidential information. This finger-pointing between parties is
11 reprehensible, especially because Synopsys has assumed control over the defense of the case on behalf
12 of the ASIC defendants. The court should also be aware that the ASIC defendants, acting on orders
13 from Synopsys, has moved this court for a stay of this action, which (if granted) would prevent
14 obtaining the documents from those defendants as Synopsys has suggested.
15

16 **4. Documents Relating To Prior Art (Request Nos. 25, 29-30)**

17 Document Request No. 25: Produce all documents concerning articles, papers, presentations,
18 and publications authored in whole or part by Aart de Gues, David Gregory, William Cohen, or
19 Karen Bartlett with respect to ASIC Design Systems and ASIC Methods.

20 Response to Request No. 25: In addition to its general and specific objections, Synopsys further
21 objects to this request on the basis that it is overly broad, unreasonably burdensome. The
22 documents requested are public materials that can be obtained less burdensomely by Ricoh from
23 public sources. Without waiving any of the foregoing objections, Synopsys will produce any
24 responsive materials that can be found after a reasonable search and that are dated sufficiently
25 early to constitute possible prior art against the '432 patent under 35 U.S.C. section 102(b).
26

27 Document Request No. 29: Produce documents sufficient to show the capabilities, features,
28 functions, operation, and use of the system previously referred to by Synopsys as "Socrates," and
of the systems known as the "Gdl" synthesis system, the "LSS" logic synthesis system, and the
"Dagon" synthesis system including, but not limited to, any user guides, operation guides,
technical bulletins, technical reference manuals, user manuals, training manuals, specifications,
source code, tutorials, technical overviews, summaries, functional descriptions, design flow
diagrams, operational flow diagrams, design specifications, articles, reports, and memos.

Document Request No. 30: Produce all documents concerning all hardware, software, libraries
and/or databases for use in the system previously referred to by Synopsys as "Socrates," and in

the systems known as the “Gdl” synthesis system, the “LSS” logic synthesis system, and the “Dagon” synthesis system including, but not limited to, technical reference manuals, technical bulletins, user manuals, installation manuals, training manuals, specifications, source code, tutorials, technical overviews, and summaries.

Response to Request No. 29-30: In addition to its general and specific objections, Synopsys further objects to this request on the basis that it is unreasonably burdensome. Synopsys is not a party to the present action. The materials requested by Ricoh are public materials, were not generated by Synopsys, and can be obtained by Ricoh from public sources. In another lawsuit pending in the Northern District of California, Synopsys seeks a declaratory judgment of the invalidity of the ’432 patent. In due course during the litigation Synopsys intends to produce documentary evidence to Ricoh establishing the invalidity of the patent. Synopsys is not a party to the present suit and it is unreasonably burdensome to ask Synopsys to duplicate such discovery in this suit.

The individuals identified in Request 25 were identified by the ASIC defendants in their initial disclosure and any writings relating to ASIC Design Systems and ASIC Methods employed by the ASIC defendants are clearly relevant to the issues in this case. Request 29 and 30 relate to systems which apparently are being asserted as prior art and, therefore, they are very relevant to the issue of patent validity. Synopsys’ objection, effectively “go find it for yourself, even though I have it and will produce it somewhere else when I get around to it,” is not proper and should not be allowed.

CONCLUSION

Plaintiff’s motion to compel should be granted.

Dated: November 10, 2003

Respectfully submitted,

Ricoh Company, Ltd.

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